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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

INTEL CORPORATION and APPLE INC.,

Plaintiffs,

v.

FORTRESS INVESTMENT GROUP LLC,
FORTRESS CREDIT CO. LLC, UNILOC
2017 LLC, UNILOC USA, INC., UNILOC
LUXEMBOURG S.A.R.L., VLSI
TECHNOLOGY LLC, INVT SPE LLC,
INVENTERGY GLOBAL, INC., IXI IP, LLC,
and SEVEN NETWORKS, LLC,

Defendants.

Case No. 3:19-cv-07651-EMC

**DECLARATION OF MARK D. SELWYN
IN SUPPORT OF INTEL
CORPORATION AND APPLE INC.'S
ADMINISTRATIVE MOTION TO FILE
AMENDED COMPLAINT UNDER SEAL**

Case No. 3:19-cv-07651-EMC

Declaration of Mark D. Selwyn in Support of
Intel Corporation and Apple Inc.'s Administrative
Motion to File Amended Complaint Under Seal

Field Code Changed

1 I, Mark D. Selwyn, do hereby declare as follows:

2 1. I am a partner at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel
3 for Intel Corporation ("Intel") and Apple Inc. ("Apple") in the above-captioned case. I am licensed
4 to practice law in the State of California, the Commonwealth of Massachusetts, and the State of New
5 York, and am admitted to practice before the U.S. District Court for the Northern District of
6 California. I am familiar with the facts set forth herein, and, if called as a witness, I could and would
7 testify competently to those facts under oath. I submit this declaration in support of Intel and
8 Apple's Administrative Motion to File Amended Complaint Under Seal, pursuant to Civ. L.R. 7-11
9 and 79-5.

10 2. Portions of Intel and Apple's Amended Complaint ("Amended Complaint") contain
11 information about Apple's and Intel's license and/or patent purchase agreements with third parties.

12 3. The following portions of the Amended Complaint contain information regarding the
13 patents and licensing payment terms between Apple and a third party: (1) pages 51, paragraph 151,
14 line numbers 11-13, (2) page 58, paragraph 174, line numbers 5-7, and (3) page 121, paragraph 421,
15 line numbers 9-11.

16 4. The following portions of the Amended Complaint contain information regarding the
17 patent purchase terms between Intel and a third party: (1) page 58, paragraph 174, line numbers 7-9,
18 (2) page 70, paragraph 228, line number 15, (3) page 96, paragraph 317, line numbers 16-18, and (4)
19 page 101, paragraph 335, line number 7.

20 5. Public disclosure of information regarding the types of patents licensed or purchased
21 and payment terms from Apple's and Intel's license and/or patent purchase agreements could
22 negatively affect Apple's and Intel's future licenses and settlements. Competitors and potential
23 counterparties to licensing, acquisition, and settlement agreements would gain an unfair insight into
24 Apple's and Intel's business strategies and cost/benefit analyses. Using knowledge of the precise
25 substantive and financial terms of previously nonpublic agreements, competitors, and potential
26 counterparties would be able to calibrate their negotiation strategies with Apple and Intel using that
27 unfair advantage. Apple's and Intel's license and/or patent purchase agreements are also the subject
28

1 of nondisclosure agreements and are highly confidential to Apple, Intel, and the third parties that
 2 signed those agreements with Apple or Intel. Those third parties would likely consider public
 3 disclosure of information about those license and/or patent purchase agreements to be extremely
 4 harmful to them.

5 6. Portions of the Amended Complaint contain information regarding licensing and/or
 6 acquisition negotiations that certain defendants or non-parties (“Interested Parties”) may seek to seal.

7 7. The following portions of the Amended Complaint contain information regarding
 8 licensing negotiations between either Intel or Apple and Interested Parties, which the Court sealed in
 9 Intel and Apple’s original complaint: (1) page 37, paragraph 104, line numbers 14-16, (2) page 38,
 10 paragraph 107, line numbers 4-6 and (3) page 38, paragraph 109, line numbers 12-15. ECF No. 54
 11 at 2.

12 8. The following portions of the Amended Complaint contain information regarding
 13 licensing and/or acquisition negotiations between either Intel or Apple and Interested Parties: (1)
 14 page 70, paragraph 228, line numbers 11-13 and line number 24, (2) pages 71-72, paragraph 229,
 15 line numbers 14-15 and line numbers 19-20 of page 71, and line numbers 1-2 of page 72, (3) page
 16 77, paragraph 247, line numbers 5-6, line numbers 11-12 and line numbers 17-18, and (4) page 101,
 17 paragraph 335, line numbers 3-5 and line number 16. These negotiations are subject to
 18 confidentiality agreements governing the use and disclosure of Intel’s and Apple’s negotiation
 19 communications with these Interested Parties. Intel and Apple understand that the Interested Parties
 20 consider the information regarding their negotiations with Intel and Apple described in the Amended
 21 Complaint to be confidential, and Intel and Apple therefore told the Interested Parties that they
 22 would file this information under seal. Intel and Apple understand that the Interested Parties may
 23 seek to file further declarations in support of sealing this information.

24 9. Portions of the Amended Complaint contain information regarding damages claims
 25 made by Defendant Seven Networks LLC (“Seven Networks”) in another litigation.

26 10. The following portions of the Amended Complaint contain information regarding
 27 Seven Networks’ damages contentions: page 66, paragraph 208, line number 5 contains information.
 28

1 Apple understands that Seven Networks may consider this information to be Highly Confidential –
 2 Attorneys' Eyes Only. Intel and Apple expect that Seven Networks may seek to file a declaration in
 3 support of sealing this information.
 4

5 I declare under the penalty of perjury under the laws of the United States of America that the
 6 foregoing is true and correct to the best of my knowledge and that this Declaration was executed this
 7 4th day of August 2020.
 8

9 Dated: August 4, 2020

By: /s/ Mark D. Selwyn

Mark D. Selwyn

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